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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,091	09/23/2003	Louis Brown Abrams	4811-9-CON	6362
22442	7590	06/16/2006	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			JUSKA, CHERYL ANN	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,091	Applicant(s) ABRAMS, LOUIS BROWN	
	Examiner Cheryl Juska	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 41 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/21/06, 05/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendments filed January 11 and 27 and March 21, 2006, have been entered. Claim 1 has been amended as requested. Claims 15-40 are cancelled and new claims 41 and 42 have been added. Thus, the pending claims are 1-14, 41, and 42. Additionally, the specification has been amended as requested.
2. Said amendment is sufficient to overcome the new matter rejection of the specification as set forth in section 3 of the last Office Action. Additionally, said amendment is sufficient to withdraw the 112, 2nd rejection of claim 1 as set forth in section 11 of the last Office Action.

Drawings

3. The replacement drawing filed January 11, 2006, is sufficient to withdraw the objection to the drawings as set forth in section 4 of the last office Action.
4. The drawings stand objected to because Figure 3 is not described in the specification. Additionally, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "5" has been used to designate both the flock and the release agent.

Double Patenting

5. Claims 1-14 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 18-23, 25-27, 29-38, 40-42, 44-46, 48, and 50-53 of copending Application No. 09/621,830 as set forth in section 8 of

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the last Office Action. New claims 41 and 42 are also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over said claims of copending Application No. 09/621,830.

6. Note the terminal disclaimer filed January 11, 2006, does not comply with 37 CFR 1.321(b) and/or (c) because: An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1, 6, 7, and 9-14 stand rejected under 35 USC 103(b) as being anticipated by US 5,115,104 issued to Bunyan as set forth in section 13 of the last Office Action.

The amendments to the claims are not seen to distinguish the present invention from the prior art. Specifically, it is asserted that the limitation that the film is “pre-formed” and “self-supporting” are seen as method limitations in an article claim. In other words, said limitations reflect the method of making the flock transfer assembly. As such, said limitations are not necessarily given patentable weight at this time since the claims are examined on the structure of the final product. It is asserted that the final product of the prior art has the same structural features of the present invention as described in the preceding paragraph. Therefore, the claims stand anticipated.

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Additionally, it is asserted that the final product of the thermosetting film of Bunyan will have a “substantially” uniform thickness and flat surfaces. There is nothing on record establishing that the method of the prior art does not produce such features. Applicant’s arguments with respect to this issue are not substantiated with evidence. The arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965).

9. New claim 42 is rejected under 35 USC 103(b) as being anticipated by US 5,115,104 issued to Bunyan.

It is asserted that the thermosetting film of Bunyan is continuous. Therefore, claim 42 is also rejected.

10. Claims 1-4 and 6-14 stand rejected under 35 USC 102(b) as being anticipated by US 4,687,527 issued to Higashiguchi as set forth in section 14 of the last Office Action.

Claim Rejections - 35 USC § 103

11. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over the cited Higashiguchi reference.

Allowable Subject Matter

12. Claim 41 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The cited prior art does not teach or suggest the absence of a substrate

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since both references require the thermosetting adhesive to be adhered to a substrate. Thus, claim 41 contains allowable subject matter.

Response to Arguments

13. Applicant's arguments filed with the amendment have been fully considered but they are not persuasive.

14. Applicant traverses the rejections based upon Bunyan and Higashiguchi by asserting that the references do not teach or suggest a flock assembly wherein all free ends of the flock contact the thermosetting film since Bunyan requires a mask to provide flocked and unflocked areas and Higashiguchi produces a flock pattern (Amendment, paragraph spanning pages 17-18 and paragraph spanning pages 18-19). The examiner disagrees with these arguments since the claims do not preclude the presence of a flocked pattern. Said claims merely require that the flock that is present is in contact with the thermosetting film. Therefore, applicant's argument is found unpersuasive and the above rejections stand.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

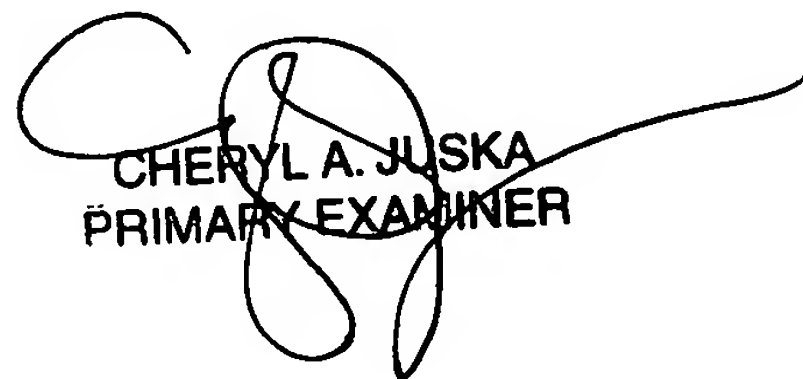
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHERYL A. JUSKA
PRIMARY EXAMINER

cj
June 12, 2006